

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2006025

Variance

Hearing Date:

May 10, 2006 (Continued from April 12, 2006)

Agenda Item:

4

Supervisory District:

1

Applicant\Owner:

Don Pennington

Request:

Variance to permit:

An existing single family residence with a setback of 36 feet from the side (east) property line where 60 feet is the minimum required in the Rural-43 zoning district.

This variance is requested from the following Zoning Ordinance Section(s):

Section 503, Article 503.4.2

Site Location:

20342 East Happy Road – Happy Road and 204th Street
(Queen Creek area)

Site Size:

56,672 square feet (1.3 acres)

Existing Zoning:

Rural-43

Current Use:

Residential

Citizen

Support/Opposition:

None known

Staff

Recommendation:

Approve with stipulations

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence
North: Single-family residence
South: Happy Rd. then single-family residence
East: Single-family residence
West: Single-family residence

Background:

3. **December 8, 1998:** Parcel **304-91-036J** (subject site), -036G -036H and -036K were created from a lot split of the parent parcel 304-91-036E.
4. **February 11, 2005:** The applicant took possession of the subject property via a Warranty Deed recorded under docket number **2005018757**.
5. **February 16, 2005:** Permit **B200414744** for a single family residence was issued for the subject property.
6. **April 21, 2005:** Permit **B200414744** for a single family residence was finalized for the subject property.
7. **June 3, 2005:** Permit **B200501830** for a detached accessory structure was issued for the subject property.
8. **August 9, 2005:** Permit **B200501830** for a detached accessory structure was finalized for the subject property.
9. **December 22, 2005:** Staff review of the site plan for building permit **B200517218** discovered the subject parcel had a non-compliant side yard setback.
10. **February 22, 2006:** The applicant was notified that a Zoning Clearance could not be authorized because the property was not in compliance.
11. **March 1, 2006:** The applicant applied for this variance.

Findings:

12. **Maricopa County Department of Transportation:** No response at the time this report was written.
13. **Flood Control District:** No response at the time this report was written.
14. **Environmental Services Department:** No response at the time this report was written.
15. **Drainage Administration:** No objections to the variance request.

Site Analysis:

16. The subject site is a rectangular shaped lot measuring 164 feet in width and 345 feet in depth for a total of 5,627 square feet. The property fronts Happy Road to the south and the eastern boundary is along 204th Street. Access to the property is directly from Happy Road. 204th Street is a mid-section line alignment and requires a 40-foot set back. The site is level and free of any notable topographic characteristics that would hinder further development of the site. The property appears well maintained. There are immature trees on the site with graveled front and rear yards.
17. The property is currently developed with a 3,080 square foot single family residence and a 580 square foot detached garage. The residence is out of compliance with the Rural-43 side yard requirement and is the reason for this variance request. Staff research indicates the residence and detached accessory structure were permitted and constructed in 2005. The applicant wishes to construct a 1,500-square foot detached accessory structure to the north of the residence in the rear yard of the property. A permit has been submitted for the proposed structure at the time this report was written.
18. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	150-feet
Rear Yard Setback	40-feet	200-feet
Side Yard Setback	30-feet	47-feet
Street Side Setback	60-feet**	36-feet
Maximum Height	30-feet/2 stories	15-feet/1 story
Minimum Lot Area	43,560-sq. ft	56,675-sq. ft
Minimum Lot Width	145-feet	164-feet
Lot Coverage	15%	9%

*Standards indicated in **bold** do not meet minimum base zoning standards.

** Includes right of way for 204th street.

Land Use Analysis:

19. The subject site is located in the Queen Creek area near the corporate boundary of the Town of Queen Creek and northwest of the intersection of Happy Road and 204th Street. Immediately to the east of the subject site is 204th Street, the reason for the variance request, and a mid-section line road. Approximately ¾-mile north of the subject site is Riggs road, a section line road.
20. The subject site is located in an area that is transitioning from agricultural to residential use at this time. This area has seen significant residential development which includes large, rural, estate properties and large lot subdivisions and with some denser developments in the immediate and general area. Currently, much of the development is occurring on one acre or larger parcels in the immediate and general area of the subject site. Typical residences are greater than 2,000 square feet. The general area around the subject site does not appear to have significant washes or drainage features.
21. Historically the board has heard a few cases in the general area. The following cases were closest and most relevant.
 - Case **BA2005020** was a request to permit: 1) an existing single-family residence to setback 15 feet from the side (north) property line where 30 feet is the minimum required, 2) a proposed detached accessory structure (garage) to setback 12 feet from the front (east) property line where 40 feet is the minimum required, 3) a proposed detached accessory structure (garage) to setback 20 feet from the side (north) property line where 30 feet is the minimum required; and 4) a proposed building separation distance (detached garage/ single-family residence) of 10 feet where 15 feet is the minimum required. Requests 2, 3 and 4 were denied and request number one was approved February 2005. The property address is 26220 S. 201st Street, ¼-mile west of the subject site.
 - Case **BA2005029** was a request to permit: 1) an existing detached accessory structure (mare motel) to setback 14 feet from the side (north) property line where 30 feet is the minimum required; and 2) an existing detached accessory structure (mare motel) to setback 59 feet from the rear (west) property line where 73 feet is the minimum required in the Rural-43 zoning district. These requests were denied June 2005. The property address is 20421 E. Twilight Drive, ½-mile north of the subject site.

22. The properties within the immediate area of unincorporated county land are currently zoned Rural-43. A quarter mile to the north of the subject site is the Citrus Cove subdivision, which consists of 17 parcels that are each slightly larger than one acre in size. The subject site is not located within this designated subdivision. The subject site is located within a Class 1a county surrounded by the Town of Queen Creek, which has annexed to within $\frac{3}{4}$ of a mile on the north and $\frac{1}{2}$ of a mile east of the subject site. The Gila River Indian Community is located approximately $\frac{1}{4}$ of a mile to the south of the subject site. The county line between Maricopa County and Pinal County is located $3\frac{1}{2}$ -miles to the east of the subject site. There are no commercial properties within the immediate area of the subject site.

Plan Analysis:

23. The applicant is requesting a variance to permit an existing single family residence with a setback of 36 feet from the side (east) property line where 60 feet is the minimum required in the Rural-43 Zoning District. The request came about when staff reviewed the site plan for building permit application (**B200517218**) for a detached accessory structure and found that the residence was not in compliance with the Zoning Ordinance, specifically for the side yard setback in regard to a mid-section line road. Maricopa County staff had previously approved multiple building permits for grading the property, the residence and a detached accessory structure. When a site plan for a proposed detached accessory structure was turned in for zoning review, staff noted that the property would require a variance due to 204th Street being a mid-section line roadway along the eastern property line and would require a side yard setback of an additional 40 feet. The building permits for the grading, existing residence and detached accessory structure appear to have originally been issued in error by Maricopa County staff as the mid-section line road to the east was missed in all previous plan reviews. This apparent error can be considered an unusual circumstance.
24. The property was properly permitted and inspected and all of the structures on site meet the general requirements for the Rural-43 Zoning District. Staff believes that the requested relief is unnoticeable and minimal on a property of this size. Granting this variance request would not be detrimental to the adjacent properties or negatively affect the public welfare. The request is not self-created by the applicant and the approval of this request would not grant a special privilege to the applicant. There are no viable alternatives available to the applicant under these circumstances. Staff recommends approval of this variance as it is an unusual circumstance where previous permits were erroneously permitted by staff.

Recommendation: (BA2006025)

25. Staff recommends **approval** of this variance request based on the following:

- The need for this variance is not self-created.
- Approval of this request would provide the minimum relief necessary to allow the applicant a reasonable use of the property.
- There are no alternative solutions available to the applicant.
- An unusual circumstance exists with regard to the permitting of the proposed residence.

Subject to the following stipulations:

- a) General compliance with the site plan dated received March 1, 2006.
- b) The applicant shall obtain all necessary permits with in 120 days of Board approval.
- c) The applicant shall seek a right-of-way waiver from the Maricopa County Department of Transportation for the 204th Street alignment.

26. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

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Attachments: Case Map BA2006025
Zoning Map
Assessor Map
Site Plan
Application
Supplemental Questionnaire